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10 UNITED STATES DISTRICT COURT
11 WESTERN DISTRICT OF WASHINGTON
12 AT TACOMA

13 SANDRA HERRERA, *et al.*

14 Plaintiffs,

15 v.

16 PIERCE COUNTY, *et al.*

17 Defendants.

18 NO. C95-5025 RJB/JKA

19 ORDER ON DEFENDANTS'
20 REQUEST FOR PROTOCOLS

21 This 42 U.S.C. 1983 Action has been referred to the undersigned Magistrate Judge.

22 Before the court is a "request" to impose certain protocols on the court monitor's interactions
23 with Pierce County Staff (Dkt. # 216).

24 The court notes that Proposed Monitor Protocols 1, 2, and 3 appear to be consistent with
25 the procedures heretofore utilized by the Monitor and corrections staff/employees, and knows of
26 no reason why those practices should not continue.

27 With regard to Proposed Protocol 4, the court would first note that any individual has a
28 right to have an attorney of their choosing present during any inquiry. As proposed, however,

1 the procedure is too onerous. Staff and counsel will have advance notice of the dates of the
2 Monitors visit to the jail. The Monitor's efforts are obviously "work in progress" and he cannot
3 possibly give advance notice of every person he may wish to speak with. The work of the
4 monitor should not be impeded by the unavailability of counsel. It shall therefore be incumbent
5 on the jail staff and counsel to make certain that counsel is **present or immediately available** at
6 all times during the scheduled visit. The court therefore will protect the right to have counsel
7 present with the understanding that that the procedure does not adversely impact the Monitor's
8 ability to efficiently and expeditiously complete his task. If counsel's presence, or delayed
9 presence, obstructs or interferes with the monitor's visit, the court expects the monitor to note
10 the nature of the problem(s) in the report to the court

Dated this 16th day of September, 2009.

/s/ J. Kelley Arnold
J. Kelley Arnold
United States Magistrate Judge